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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,202	08/31/2001	John Brooks Smith	7152	4500

7590

02/27/2003

JOHNS MANVILLE INTERNATIONAL, INC
Legal Department
P.O. Box 5108
Denver, CO 80217

EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/945,202

Applicant(s)

SMITH ET AL.

Examiner

Jane J Rhee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weinstein et al. in view of Berdan (6042911) and in further view of Allwein et al. (5817387).

Weinstein et al. discloses a plurality of resilient fibrous insulation batt (col. 3 lines 34-38), the fibrous insulation batt having a length, a width and a thickness (col. 4 lines 3-4), the fibrous insulation batt having a first major surface and a second major surface (col. 4 lines 11-12), the precut fibrous insulation batt having a plurality of longitudinally extending batt sections (figure 1 number 20) formed in precut fibrous insulation batt by a plurality of longitudinally extending cut means (col. 5 lines 50-51) spaced inwardly from lateral edges of the fibrous insulation batt and located intermediate the batt sections of the fibrous insulation batt (figure 1 number 20), each of the cut means being closed to prevent a formation of thermal bridges in the direction of the thickness of the fibrous insulation batt (col. 6 line 3), the batt sections being separably joined to adjacent batt sections by separable connector means, extending along the length of the precut fibrous insulation batt (figure 1 number 20), the fibrous insulation batt being between about 9 inches and 25 inches in width (col. 4 lines 19) and successive batt sections of

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the batt sections of the precut fibrous insulation batt having widths such that, by separating at least one batt section from the pre-cut fibrous insulation batt, an integral batt can be formed having any of a series of selected widths that range from the width of about 1 to 3 inches to a greater width less than the width of the precut fibrous insulation batt and that differ in width in increments that are between about 1 inch and about 4 inches in width (col. 4 lines 19-21). Weinstein et al. discloses that the pre cut fibrous insulation batt is about 15 inches in width and the successive batt section of the batt sections of the precut fibrous insulation batt have widths of about 2 and a half, 4, 4, and 4 and a half inches (col. 4 lines 19-21). Weinstein et al. discloses a facing sheet that overlies a major surface of the fibrous insulation batt and is bonded to the major surface of the fibrous insulation batt, and the facing sheet has a separable means therein extending for the length of the fibrous insulation batt (col. 5 lines 1-7). Weinstein et al. discloses that the separable means of the facing sheet is perforated line in the facing sheet (col. 5 lines 16). Weinstein et al. discloses that the perforation of the perforated line are filled with a bonding agent that bonds the facing sheet to the major surface of the resilient fibrous insulation batt to close the perforations so that the facing sheet functions as a vapor barrier (col. 5 lines 65-col. 6 lines 1-5). Weinstein et al. discloses that the successive batt sections have widths such that an integral batt can be formed having any of a series of selected widths that differ in width predominately in about 1 to about 2 inch increments (col. 4 lines 20-21). Weinstein et al. discloses that the separable connector means are formed in the precut fibrous insulation batts by partial cuts in the precut fibrous insulation batts, intermediate adjacent batt section of

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the precut fibrous insulation batt, that do not completely sever the batt between the adjacent batt section and the partial cuts are closed to prevent the formation of thermal bridges by the resilience of the precut fibrous insulation batt (col. 5 lines 50-61 and col. 6 lines 3). Weinstein et al. teaches that the length of each of the resilient fibrous insulation batts is at least 46 inches (col. 4 lines 7-8) and that the thickness of the fibrous insulation batts is at least 3 inches (col. 3 lines 65-67).

Weinstein et al. fail to disclose that the fibrous insulation batt is enveloped within a covering. Weinstein et al. fail to disclose that the resilient fibrous insulation batt includes uncut fibrous batts. Weinstein et al. fail to disclose that between 20% to 70% of the resilient fibrous insulation batts are precut fibrous insulation batts. Weinstein et al. fail to disclose that the fibrous insulation batts are about 23 inches in width and the batt sections have widths about 3-11 and a half inches. Weinstein et al. fail to disclose that the resilient glass fiber insulation batt has a density of each of the resilient fibrous insulation batts is between about 0.4 pounds/ft³ and about 1.5 pounds/ft³. Weinstein et al. fail to disclose that the facing sheet is made of material selected from the group consisting of kraft paper, polymeric film, and foil scrim Kraft paper laminate. Weinstein et al. fail to disclose that each of the facing sheets has a first pair of tabs adjacent lateral edges of the first major surface of and extending along the length of the resilient fibrous insulation batt to which the facing sheet is bonded, and each of the facing sheets bonded to one of the precut fibrous insulation batts has additional pairs of tabs, at least substantially aligned with the separable connector means of and extending along the length of the precut fibrous insulating batt to which the facing sheet is bonded.

Berdan teaches that uncut fibrous insulation batt is enveloped within a covering (col. 4 line 1) for the purpose of reshaping within the confines of the exterior layer into a shape defined by the user (col. 4 lines 4-6). Berdan teaches that the resilient fibrous insulation batts are between about 0.4 pounds /ft³ and about 1.5 pounds/ft³ (col. 9 lines 13-14) for the purpose of providing a desired shape of the batt (col. 9 lines 12-13). Berdan teaches that the facing sheet is made of material selected from the group consisting of kraft paper, polymeric film, and foil scrim Kraft paper laminate for the purpose of reshaping the batt (col. 10 lines 1-2).

Therefore, It would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to provide Weinstein et al. with the facing sheet made of a material selected from the group consisting of kraft paper, polymeric film, and foil scrim Kraft paper laminate for the purpose of reshaping the batt (col. 10 lines 1-2).

Also, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to provide Weinstein et al. with uncut fibrous insulation batt that is enveloped within a covering in order to reshape within the confines of the exterior layer into a shape defined by the user (col. 4 lines 4-6) as taught by Berdan.

Furthermore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to provide Weinstein et al. with the resilient fibrous insulation batts that are between about 0.4 pounds /ft³ and about 1.5 pounds/ft³ in order to provide a desired shape of the batt (col. 9 lines 12-13).

Weinstein et al. teaches precut fibrous batt with a width of 15 inches and the width of batt sections of 3-6 inches (col. 4 lines 19-21) and Berdan teaches uncut

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fibrous batt with a width of 19.2 inches, it would have been obvious to one having ordinary skill in the art at the time the invention was made to obtain 20%-70% precut fibrous batt with a width of 23 inches and batt sections widths of about 3-11 inches, since it has been held that discovering an optimum value of result effective variable involves only routine skill in the art. In re Boesch, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

It has been held that a recitation with respect to the manner in which a claimed article is intended to be employed such as "for holding the precut fibrous insulation batt together for handling and being separable by hand to separate adjacent batt sections whereby the precut fibrous insulation batt can be handled as a unit for insulating a cavity having a width about equal to the width of the precut fibrous insulation batt or separated by and into batt section at one of more of the separable connector means for insulating a cavity having a lesser width" does not differentiate the claimed article from a prior art article satisfying the claimed structural limitations. Ex parte Masham 2 uSPQ2d 1647 (1987).

Allwein et al. teaches that each of the facing sheets has a first pair of tabs adjacent lateral edges of the first major surface of and extending along the length of the resilient fibrous insulation batt (figure 2 number 32 and 36) to which the facing sheet is bonded, and each of the facing sheets bonded to one of the precut fibrous insulation batts has additional pairs of tabs, at least substantially aligned with the separable connector means (figure 1 number 42) of and extending along the length of the precut fibrous insulating batt to which the facing sheet is bonded for the purpose of sealing the

facing material together and reducing the likelihood of the dust and fibers becoming a possible irritant to the workers handling and installing the insulation assemblies (col. 4 lines 35-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to provide Weinstein et al. and Berdan with each of the facing sheets that has a first pair of tabs adjacent lateral edges of the first major surface of and extending along the length of the resilient fibrous insulation batt to which the facing sheet is bonded, and each of the facing sheets bonded to one of the precut fibrous insulation batts that has additional pairs of tabs, at least substantially aligned with the separable connector means of and extending along the length of the precut fibrous insulating batt to which the facing sheet is bonded in order to seal the facing material together and reducing the likelihood of the dust and fibers becoming a possible irritant to the workers handling and installing the insulation assemblies (col. 4 lines 35-50) as taught by Allwein et al.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee
February 11, 2003



HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

2/21/03